

## **REMARKS**

Claims 1-16 and 19-24, as amended, remain in the present application for the Examiner's review and consideration. Claims 25-37 and 40-102 have been withdrawn. Claims 17, 18, 38, and 39 have been cancelled. Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

### **Election/Restriction**

In the Office Action dated March 8, 2007, the Examiner set forth a six-way Restriction Requirement. The Examiner has requested that Applicants elect one of the six groups: Group I (claims 1-24) is drawn to a first fuel supply; Group II (claims 25-26) is drawn to a second fuel supply; Group III (claims 27-39) is drawn to an information storage device; Group IV (claims 40-83) is drawn to a fuel cell system; Group V (claims 84-95) is drawn to a filter; Group VI (claims 96-102) is drawn to an ion gauge/method. During a telephone conversation with the Examiner on February 7, 2007, the Applicants' undersigned attorney of record provisionally elected to prosecute the claims of Group I without traverse. Applicants hereby affirm the election of Group I (claims 1-24), and withdraw the claims encompassing Group II (claims 17-20), Group III (claims 27-39), Group IV (claims 40-83), Group V (claims 84-95), and Group VI (claims 96-102).

### **Rejections under 35 U.S.C. § 102(e)**

Claims 8, 12, 13, 15, 16, 19, 21 and 22 are rejected under 35 U.S.C. § 102(e) as being anticipated by either U.S. Patent Appl. Publication No. 2003/0082426 ("the '426 reference") to Bullock *et al.* or U.S. Patent Appl. Publication No. 2003/0082416 ("the '416 reference") to Bullock *et al.* Applicants respectfully traverse the Examiner's rejection.

It is axiomatic that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Applicants respectfully assert that the Examiner has not met the strict burden of this rule for any aforementioned claim.

As amended, independent claim 8 recites in part, "data selected from the group of

information consisting of current ion level in the fuel, vibration tolerance for the cartridge, anti-counterfeit information, intellectual property information, security password, expiration date, shut-down sequence, hot swap procedure, fuel gage type, and fluid sensor information.”

Contrary to the Examiner’s assertion, the information storage device disclosed in the cited prior art does not store intellectual property information let alone any of the other types of information recited in the Markush group of claim 8. More specifically, paragraph 0028 of the applied references discusses the mechanical structures of the cartridge; paragraphs 0035-0039 describe the structures of the electrical links and integrated chips (ICs); paragraphs 0040 and 0041 describe the keying information; paragraphs 0042-0043 and 0054 discuss fuel management; paragraphs 0050 and 0051 discuss keying and triggering information; paragraphs 0051-0053 describe software upgrades; and paragraphs 0055-0056 discuss self contained fuel cells with an information storage device. None of these cited paragraphs discloses the information claimed in claim 8, and there is no indication that the claimed information would be obvious to one of ordinary skill in the art.

Independent claim 21 recites in part a “first information storage device including a security identification password” and “a controller capable of accessing a confirmation password.” Contrary to the Examiner’s assertions, the cited prior art does not set forth a controller utilizing a “password” let alone an information storage device including a security identification password. The Examiner refers to paragraphs 0041 and 0042 of the ‘426 and ‘416 references as utilizing a password. However, these paragraphs discuss a number of information, such as data structure parameters, keying information (“acceptable” or “unacceptable” or not “optimal”) and fuel level. Nothing in these paragraphs indicates a password to allow the operation of the fuel supply. The information disclosed in paragraphs 0041 and 0042 can be accessed openly, without a password. Hence, claim 21 is novel and unobvious over the ‘416 and ‘426 references.

Given that neither the ‘426 reference nor the ‘416 reference teach each and every element of independent claims 8 and 21, they are patentable over those references. Claims 12, 13, 15, 16, 19, and 22 all depend upon allowable claims 8 or 21 and add further limitations thereto, and therefore are patentable for that reason alone. Applicants reserve the right to further support the

patentability of these dependent claims, should that become necessary.

In view of the aforementioned remarks, Applicants respectfully request that the rejections under Section 102(c) be withdrawn.

### **Rejections under 35 U.S.C. § 103(a)**

Claims 1-7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the '426 reference or the '416 reference, each taken in view of both U.S. Patent No. 6,359,777 ("the '777 patent") to Newman *et al.* and U.S. Patent Appl. Publication No. 2002/0154915 ("the '915 reference") to Bullock *et al.* Applicants respectfully traverse the Examiner's rejection.

In order for an obviousness rejection to be appropriate under § 103(a), the combination of references must teach or suggest all of the claim's limitations. The Examiner states that "[t]he '777 patent sets forth in the abstract and column 3, line 50 through column 4, line 16 an encryption device used with a fuel cell system. To thus utilize an encryption device of '777 in the fuel cell system of either '426 or '416 would have been obvious to one of ordinary skill in this art at the time the invention was made so that it would be difficult to access and utilize the information device for the fuel cell."

Applicants submit that the '777 patent only discloses an encryption device but not "stored encrypted data" as recited in claim 1. More particularly, the '777 patent is directed towards a user-configurable communications adapter module ("CAM") with a security/encryption ENDEC (*i.e.*, encode and decode) function. See column 4, lines 6-11 of the '777 patent. Claim 1 has been amended to state that the data is encrypted by the manufacturer of the cartridge. Support for this amendment can be found on page 19, lines 4-7, of the originally filed application, such encrypted data is stored by the manufacturer and not the user to protect proprietary information from being accessed by the manufacturer's competitors.

For this reason alone, the combination of '416/'426 and '777 references does not render claim 1 obvious. The '915 reference cannot remedy this deficiency. The Examiner refers to paragraphs 0012 and 0023 of the '915 to show "an electrically erasable programmable read-only memory for a fuel cell," also known by the acronym EEPROM. First, EEPROM is a memory and not "decoder" as suggested by the Examiner, and second EEPROM is already discussed in the '416/'426 references (see, e.g., paragraph 0036).

Given that neither the '426 reference nor the '416 reference, taken in view of both the '777 patent and the '915 reference, teaches or suggests all of the limitations of claim 1, it is patentable over those references. Claims 2-7 all depend from allowable claim 1 and add further limitations thereto, and therefore are patentable for that reason alone. Applicants reserve the right to further support the patentability of these dependent claims, should that become necessary.

Claims 9-11, 14, 17, 18, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either the '426 reference or the '416 reference, each taken in view of the '915 reference and U.S. Patent Appl. Publication No. 2003/0138679 ("the '679 reference") to Prased *et al.* Applicants respectfully traverse the Examiner's rejection.

Claims 9-11, 14, and 20 all depend from allowable claim 8 and add further limitations thereto, and therefore are patentable for that reason alone. Claims 17 and 18 have been cancelled, and thus their rejection has been rendered moot. Applicants reserve the right to further support the patentability of these dependent claims, should that become necessary.

In view of the aforementioned remarks, Applicants respectfully request that the rejections under Section 103(a) be withdrawn.

#### **Rejections under 35 U.S.C. § 112**

Claims 7-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner points out that lines 1 and 4 of claims 7 and 8, respectively, recite improper Markush terminology. Accordingly, per the Examiner's suggestion, the expression "a group" has been corrected to read --the group--. Claims 9-16 and 19-20 all depend upon allowable claim 8 and add further limitations thereto, and therefore are patentable for that reason alone. Claims 17 and 18 have been cancelled, and thus their rejection has been rendered moot.

Applicants reserve the right to further support the patentability of these dependent claims, should that become necessary.

In view of the aforementioned amendments and remarks, Applicants respectfully request that the rejections under Section 112 be withdrawn.

### CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

A Petition for Extension of Time under 37 CFR 1.136(a) and the requisite three-month extension fee of \$120 are submitted herewith. If any additional extension of time is required, it is hereby petitioned for under 37 C.F.R. § 1.136, and if any other required fee is due, the Commissioner may charge appropriate fees to H.T. Than Law Group, Deposit Account No. 50-1980.

Respectfully submitted,

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